***** **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on July 26, 2007

Delivered on August 16, 2007

+ **CRL.REV.P. 255/2007**

VIKAS & ORS. .....Petitioners

Through Mr. D.P. Sharma, Advocate

versus

GOVT. OF NCT OF DELHI .....Respondent

Through Mr. Pawan Sharma, APP for State

CORAM:

HON'BLE MR. JUUSTICE S. RAVINDRA BHAT

1. Whether reporters of local papers may be allowed to see the judgment.? yes
2. To be referred to the Reporter or not? yes
3. Whether the judgment should be reported in the Digest? yes

Mr. Justice S. Ravindra Bhat:

1. The present revision petition challenges an order on charge dated 22.02.07 of the Learned Additional Sessions Judge (ASJ). The Petitioners are charged for committing offences punishable under section 498A/ 304B/34 of the Indian Penal code (IPC)

2. The brief facts necessary to decide the present Petition are as follows; Vikas the first petitioner (hereafter the "husband") was married to Neelam (hereafter the "deceased") on

24.11.2005. She committed suicide by hanging on 13.05.2006. The death took place within six months of marriage. The post mortem report states that the cause of death was asphyxia by hanging. There are allegations that the deceased was subjected to dowry harassment. Those were levelled by the deceased's relatives. The other petitioners are the father, mother and sister of the first Petitioner husband. Petitioners 5 and 6 are daughters-in-law of the Petitioner Nos. 2 and 3.

3. Learned counsel for the Petitioners contended that there is no evidence to bring the petitioners within the ambit of the offences for which they are charged. He placed reliance on a suicide note left behind by the deceased which states that “Meri Maut Ke Liye Sirf Main Zimedar Hoon” (I am solely responsible for my death). Counsel submitted that the hand writing in the suicide note was confirmed as that of the deceased’s by the FSL department

4. Counsel argued that the allegations in the statement of Complainant are general in nature and there are no specific allegations against any of the petitioners. The statement of other witnesses suffer from inconsistencies and uncertainty. The learned counsel submitted that petitioner No.4 Ms. Rakhi is the unmarried sister-in-law of deceased who is highly educated and due to false implication in this case her career has been disturbed. Petitioners No.5 & 6 are married sister in laws of the deceased and they are living separately with their in-laws

5. The father of the deceased (hereafter the complainant) in his complaint alleged that the deceased was harassed for dowry by the Petitioners. He also stated that a sum of Rs. 50,000/- was paid by him to Smt. Santosh, the mother in law of the deceased on 8.5.2006 and there were more demands. The statement of the mother of the deceased Smt. Kanta Devi states that the deceased was harassed for dowry since the second week of marriage. She was physically and mentally

harassed by her in laws. The two married sisters and the unmarried sister of the husband were also involved in harassing the deceased. The deceased would discuss her problems on phone and when her in-laws found out they used to beat her up. The mother stated that they tried fulfilling the Petitioners' unlawful demands but their demands continued. The mother has blamed the husband and inlaws for the deceased's death.

6. The trial court charged the Petitioners for the offences committed under section 304B/498A/34 IPC. The extracts of the order dated 22.2.07 are as follows;

> *"In the present matter, the deceased Neelam committed suicide within seven years of her marriage. The parents of the deceased have given separate statements before the Ld. SDM in which they have detailed down the demands etc., made by the parents and other relatives and further the harassment being meted out to the deceased by the accused persons. There is reference of demands of Rs.5 lakhs in the statement of the parents of the deceased. It has further been mentioned in the said statements that the deceased used to inform her parents regarding the harassment and demands. Ld. SDM had also recorded the statement of other relatives of the deceased wherein they also have brought incriminating material against the accused persons. The law relied upon by the Ld. Counsel for the accused person is of no help to the accused as the facts of the cited law and the facts of the present case are different. There is nothing on record to suggest that the deceased had something in her mind other than harassment or torture which disturbed her or on account of which she was constrained to commit suicide".*

7. The statements of Swaroop Singh Sharma, Kanta Devi and Jag Pravesh Sharma (father, mother and brother of the deceased) as well as Rameshwar Sharma, the deceased's uncle, clearly point to demands for dowry, and harassment by the husband and his parents. The amount demanded was Rs. 5 lakh; apparently Rs. 50,000/- was given on 08.05.06. These allegations, and the circumstances of death prima facie highlight grave suspicion about their role; Section

113-B of the Evidence Act also, prima facie, operates. Therefore, the order on charge as far the first three Petitioners are concerned, cannot be termed improper or without any foundation.

8. That brings me to the correctness of charges against the fourth Petitioner, the husband's sister, and the fifth and sixth Petitioners, his sisters-in-laws. The latter two do not live in the same household; they live away with their husbands. The fourth Petitioner is unmarried, and lives with Petitioner Nos. 1-3. So far as these are concerned, all the relatives of the deceased generally alleged harassment and taunts. No specific allegations or incidents regarding their involvement were revealed. Although the statements are consistent, at best they are vague and unspecific.

9. The evidentiary threshold for framing criminal charges are existence of grave suspicion about the accused's involvement leading to the offence. Such grave suspicion should be discernible on a prima facie examination of all materials; it cannot be mere suspicion.

10. On a conspectus of all the materials and statements, although it could be assumed that there is some suspicion about the involvement of the petitioner Nos. 4 to 6, it cannot be called “grave” so as to warrant framing of charges for the offences concerned. Therefore, the impugned order, as far as it charges the petitioner Nos. 4 to 6, has to be set aside.

11. In view of the above conclusions, this petition deserves to succeed in part. The charges framed against petitioner Nos. 4 to 6 are hereby set aside/quashed. The charges framed against the petitioner Nos. 1 to 3 are hereby affirmed.

The petition is partly allowed, in the above terms. No costs.

AUGUST 16 , 2007 **(S. RAVINDRA BHAT)**

JUDGE